

**§ 180.620 Evidence.**

The Federal Rules of Evidence apply to the presentation of evidence in hearings under this part.

**§ 180.625 Record of hearing.**

(a) All oral hearings shall be recorded and transcribed by a reporter designated and supervised by the ALJ. The original transcript shall be a part of the record and shall constitute the sole official transcript. All exhibits introduced as evidence shall be incorporated into the record. The parties and the public may obtain transcripts from the official reporter at rates not to exceed the applicable rates fixed by the contract with the reporter.

(b) Corrections to the official transcript will be permitted upon motion of a party. Motions for correction must be submitted within five days after receipt of the transcript. Corrections of the official transcript will be permitted only where errors of substance are involved and upon the ALJ's approval.

**§ 180.630 Stipulations.**

The parties may stipulate to any pertinent facts by oral agreement at the hearing or by written agreement at any time. Stipulations may be submitted into evidence at any time before the end of the hearing. Once received into evidence, a stipulation is binding on the parties.

**§ 180.635 Written testimony.**

The ALJ may accept and enter into the record direct testimony of witnesses made by verified written statement rather than by oral presentation at the hearing. Unless the ALJ fixes other time periods, affidavits shall be filed and served on the parties not later than 14 days prior to the hearing. Witnesses whose testimony is presented by affidavit shall be available for cross-examination as may be required.

**§ 180.640 In camera and protective orders.**

The ALJ may limit discovery or the introduction of evidence, or may issue such protective or other orders necessary to protect privileged communications. If the ALJ determines that information in documents containing

privileged matters should be made available to a party, the ALJ may order the preparation of a summary or extract of the nonprivileged matter contained in the original.

**§ 180.645 Exhibits.**

(a) *Identification.* All exhibits offered into evidence shall be numbered sequentially and marked with a designation identifying the sponsor. The original of each exhibit offered in evidence or marked for identification shall be filed and retained in the docket of the proceeding, unless the ALJ permits the substitution of a copy for the original.

(b) *Exchange of exhibits.* One copy of each exhibit offered into evidence must be furnished to each of the parties and to the ALJ. If the ALJ does not fix a time for the exchange of exhibits, the parties shall exchange copies of proposed exhibits at the earliest practicable time before the commencement of the hearing. Exhibits submitted as rebuttal evidence are not required to be exchanged before the commencement of the hearing if the submission of such evidence could not reasonably be anticipated at that time.

(c) *Authenticity.* The authenticity of all documents submitted or exchanged as proposed exhibits prior to the hearing shall be admitted unless written objection is filed before the commencement of the hearing, or unless good cause is shown for failing to file such a written objection.

(d) The parties are encouraged to stipulate as to the admissibility of exhibits.

**§ 180.650 Public document items.**

Whenever a public document, such as an official report, decision, opinion, or published scientific or economic statistical data issued by any of the executive departments (or their subdivisions), legislative agencies or committees, or administrative agencies of the Federal Government (including Government-owned corporations), or a similar document issued by a State or its agencies is offered (in whole or in part), and such document (or part thereof) has been shown by the offeror to be reasonably available to the public, such document need not be produced or marked for identification, but

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may be offered for official notice, as a public document item by specifying the document or relevant part thereof.

**§ 180.655 Witnesses.**

(a) Witnesses shall testify under oath or affirmation.

(b) If a witness fails or refuses to testify, the failure or refusal to answer any question found by the ALJ to be proper may be grounds for striking all or part of the testimony that may have been given by the witness, or for any other action deemed appropriate by the ALJ.

**§ 180.660 Closing of record.**

(a) *Oral hearings.* Where there is an oral hearing, the hearing ends on the day of the adjournment of the oral hearing or, where written briefs are permitted, on the date that the written briefs are due.

(b) *Hearing on written record.* Where the parties have waived an oral hearing, the hearing ends on the date set by the ALJ as the final date for the receipt of submissions by the parties.

(c) *Receipt of evidence following hearing.* Following the end of the hearing, no additional evidence may be accepted into the record, except with the permission of the ALJ. The ALJ may receive additional evidence upon a determination that new and material evidence was not readily available before the end of the hearing, the evidence has been timely submitted, and its acceptance will not unduly prejudice the rights of the parties.

**§ 180.665 Arguments and briefs.**

(a) Following the submission of evidence at an oral hearing, the parties may file a brief, proposed findings of fact and conclusions of law, or both, or, in the ALJ's discretion, make oral arguments.

(b) Unless otherwise ordered by the ALJ, briefs and proposed findings of fact and conclusions of law shall be filed simultaneously by all parties. In Fair Housing Act cases, such filings shall be due not later than 45 days after the adjournment of the oral hearing. In other cases, they shall be due as the ALJ orders.

24 CFR Subtitle B, Ch. I (4-1-99 Edition)

**§ 180.670 Initial decision of ALJ.**

(a) The ALJ shall issue an initial decision including findings of fact and conclusions of law upon each material issue of fact or law presented on the record. The initial decision of the ALJ shall be based on the whole record of the proceeding. A copy of the initial decision shall be served upon all parties, aggrieved persons, the Assistant Secretary, the Secretary, and amici, if any.

(b) *Initial decision in Fair Housing Act cases.* (1) The ALJ shall issue an initial decision within 60 days after the end of the hearing, unless it is impracticable to do so. If the ALJ is unable to issue the initial decision within this time period (or within any succeeding 60-day period following the initial 60-day period), the ALJ shall notify in writing all parties, the aggrieved person on whose behalf the charge was filed, and the Assistant Secretary, of the reasons for the delay.

(2) The initial decision shall state that it will become the final agency decision 30 days after the date of issuance of the initial decision.

(3) *Findings against respondents.* If the ALJ finds that a respondent has engaged, or is about to engage, in a discriminatory housing practice, the ALJ shall issue an initial decision against the respondent and order such relief as may be appropriate. Relief may include, but is not limited to:

(i) Ordering the respondent to pay damages to the aggrieved person (including damages caused by humiliation and embarrassment).

(ii) Ordering injunctive or such other equitable relief as may be appropriate. No such order may affect any contract, sale, encumbrance or lease consummated before the issuance of the initial decision that involved a bona fide purchaser, encumbrancer or tenant without actual knowledge of the charge.

(iii) Assessing a civil penalty against any respondent to vindicate the public interest in accordance with § 180.671.

(A) The amount of the civil penalty may not exceed:

(I) \$11,000, if the respondent has not been adjudged to have committed any prior discriminatory housing practice in any administrative hearing or civil